

Lessons from the UK Experience in Pension Provision

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*These comments are personal opinions, and should not be taken to represent the views of any specific organisation.

1 INTRODUCTION

Many countries are facing similar issues with an increasing demographic problem. Governments are concerned about the future costs of acceptable welfare provision and recognise that some form of private retirement provision will be necessary. They need to take measures to ensure that the retired generation are given protection and that the private sector takes an appropriate role in the provision of products to help ensure adequate self-provision in retirement.

The purpose of this paper is to offer a personal opinion on the approach taken in the United Kingdom and the lessons to be learned from the experiences of that regime. The paper begins with a review of the key features of a pension, before considering the model adopted by the UK. It then looks at each of the key (so-called) “pillars” of pension provision, namely State, occupational and personal pensions.

2 WHAT IS A PENSION?

Before embarking on the detail, it may be appropriate to start by addressing what the author believes are the key features of a pension. Definitions across the world are not totally consistent – in some countries the terms “savings” and “pensions” may be used interchangeably. The essential elements of a pension include the following:

- A mechanism for saving for old age,
- A fund built up whilst working through to retirement when it is made available to provide an income throughout that retirement,
- Certainty that that income will last until death, without a significant loss in value,
- Income that passes to a spouse (possibly reduced) on death of the pensioner, and
- A device that can be used as a worker changes job and, for example, moves from employment to self-employment, and vice versa.

Pension regimes often display a number of additional features:

- The use of tax relief on contributions as an incentive to contribute,
- Tax incentives that favour pensions as opposed to other forms of saving,
- Investment in underlying assets that are likely to provide a good return over the long term,

- And, because of the economic importance of these features, pensions are also normally the subject of close regulation and scrutiny from the authorities responsible both for the security of the schemes and for the granting of tax relief.

Pensions should *not* be a gamble. They should not be a large number of different pots of money that are difficult to add together. They should not be an account that can be tapped into to meet short-term needs. Moreover, pensions should not be left to chance.

3 THE UK MODEL

In the United Kingdom, we tend to think that we are striking the right balance in pension provision; although the most that should be claimed is that it is the right balance for us. Pensions in the UK are built on a framework of partnership between private pensions under the second and third pillars, alongside the State first pillar, which are described more fully below. A voluntary regime of private pensions has grown up over the last forty years through a combination of large standalone self-administered pension schemes and insured occupational and personal pensions. Looking at the UK model generally, the key features are:

- Partnership between the State and the private sector,
- A compulsory flat rate basic State pension plus an earnings related element, with an underlying income guarantee for those on low life-time earnings,
- A large voluntary occupational element, encouraged by tax relief on contributions and investment earnings (although taxed as income when paid), sponsored and partly administered by employers, and
- A voluntary personal pensions market, built on the facility to contract out of the earnings related element of the State pension.

A recent survey showed that about 50% of pensioners' income currently comes from the State. Ignoring earnings and other investment income, Government figures show that the State still pays 60% of all pensions, although they have an ambition over the next 50 years to reduce that proportion to 40%. Although it is always difficult to calculate and analyse pension liabilities, it is estimated that, in the UK, State pension liabilities represent approximately 55% of the total. The remaining 45% are split between personal pensions (~10%), defined benefit occupational pensions (~30%) and defined contribution occupational pensions (~5%).

The lessons to be learned from the model itself are:

- Pre-funded private provision removes some (but not all) of the economic pressures of a declining workforce,

- The need to think long term and to plan in advance, taking the necessary steps early to ensure that the cost of State provision is both sustainable and affordable,
- Try to build an all-party consensus to avoid disruptive changes to pension policy on a change of Government,
- Use industry experts to provide a measure of independent scrutiny of any suggested changes and to de-politicise both the process and the outcome,
- People need confidence in future pension provision, so act when things are going wrong (be that the lack of sustainability of the first pillar, the lack of security of the second pillar, or the problems of poor advice in relation to the third pillar),
- Build partnership to encourage best-practice and efficiency rather than competition between the different regimes,
- Use a combination of tax relief and incentives alongside an appropriate level of compulsion,
- Use an appropriate regulatory regime to build in the necessary safeguards without adding unnecessary cost or confusion,
- The need to included the self-employed within the overall regime, and
- The need to improve understanding by a combination of simpler pensions, better education and relevant disclosure.

Moreover, it is worth noting the impact of the “human” dimension whenever choices are offered. Although pensions are designed to meet the need for adequate income in retirement, in the UK about 25% of the retirement fund may be taken in cash, tax-free. Furthermore, choice is offered as to the form in which the annuity may be taken (providing inflation protection, providing protection for dependants, providing a guarantee of payments for a given term even if death occurs prematurely). UK experience demonstrates that it is human nature for most people to choose to take the maximum short-term benefit, suggesting that we may still have some way to go in getting across the real cost of living in retirement and the need to think “long-term”.

4 THE PENSION SYSTEM IN UK

4.1 UK State Pensions – Pillar One

The first pillar in the UK is made up of a basic State pension and a supplementary earnings related pension scheme (referred to as SERPS¹). The basic pension is flat-rate, not earnings related but is reviewed each year in line with prices, on a statutory basis. The additional pension is earnings-related.

¹SERPS stands for the State Earnings Related Pension Scheme

The State manages both the basic pension scheme and SERPS on a pay-as-you-go basis. Total contributions go into the National Insurance Fund from which expenses and pensions are paid. The basic pension is compulsory for employees and the self-employed, and the unemployed can join on a voluntary basis. National Insurance Contributions are paid by anyone earning over £66 per week (about one sixth of national average earnings), and entitle a person to sickness, maternity, disability, unemployment and pension benefits. The employer pays a proportion of the contributions. Unlike most countries, it is possible to “contract-out” of the supplementary part of the first pillar.

The State pension is paid from age 65 for men and 60 for women, although the retirement age for women is to be increased gradually to 65 between the years 2010 and 2020. Since April 1999, each member of the State pension scheme receives a basic flat-rate pension of £66.75 per week, for a full contribution record², and for a married couple of £106.70. Although not part of the first pillar, it is important to note that Income Support is available to those with inadequate income, including inadequate pension. The level at which Income Support becomes payable is currently about £10 per week greater than the basic State pension.

The lessons from the UK first pillar may be seen in the current trends:

- For the State to identify its crucial role and ensure that it is both affordable and sustainable,
- Recognition that only the State can effect the redistribution to support those on low lifetime earnings, offering an adequate safety net for the economically vulnerable retired generation,
- To avoid excessive compulsion, by introducing a mechanism to encourage greater voluntary personal provision - the compulsory level of pension provision must strike the right cultural balance between the long-term benefits to individuals from better income in retirement with the right of individuals to have freedom of choice in how they use their money, and
- To attempt to include the self-employed within the same regime.

The UK has chosen to reduce the costs of first pillar State provision by a number of devices:

- Reducing the real value of the universal State pension,
- Reducing the value of the earnings related component of State provision,
- Increasing the State retirement age, and
- Encouraging private provision through the second and third pillars as an alternative to State provision.

²A full contribution record is about 44 years for men and 39 for women.

- Identification of the role to be played by the State in pension provision and the impact of State provision on incentives for private pensions are arguably the most critical elements in establishing a sustainable regime.

4.2 Occupational Pensions – Pillar Two

About 75% of privately funded pension provision in the UK has been built within the second pillar through the voluntary sponsorship of pension schemes by employers³. The employer is free to decide whether to set up an occupational pension scheme and will base that decision on advice from an employee benefit consultant or an independent financial adviser. Having established a scheme, which must be separate from the sponsoring company, all eligible employees who work for the company must be allowed to join the scheme. But since the introduction of third pillar personal pensions in 1988, employers have no longer been allowed to make membership of an occupational scheme a condition of employment, because employees cannot be members of both an occupational and a personal pension scheme for the same period of employment.

Schemes offer retirement benefits from an agreed age, without discrimination between men and women. Whilst the preference is for a normal retirement age of 65, some schemes apply a retirement age of 60. In most schemes early retirement on reduced terms is available after age 50. Deferment of retirement is also possible to any age up to 75.

The employer will choose the type of scheme, either defined contribution⁴ or defined benefit. Under a defined contribution scheme, in which the employer and the employee make contributions into the fund, the amount of pension is that which the accumulated invested contributions can buy at retirement by the purchase of an annuity, usually from an insurance company. Tax relief is offered on both employer and employee contributions, and on investment earnings, although the pension is subject to tax when paid. About 25% of the fund may be withdrawn tax-free at retirement, but the rest must be taken in the form of income.

Under defined benefit schemes, the amount of pension depends on each individual scheme. Within limits set by the tax authorities, the employer can choose the fraction of salary that is to be offered as pension depending on the number of years of employment within the scheme. The employer agrees a definition of “salary”, often related to a period leading up to leaving employment, and also decides those elements of remuneration to be included. The

³Government Actuary’s Department estimates in 1997 were that about £755 billion was invested in occupational pension schemes compared with £225 billion for personal pensions.

⁴Defined contribution schemes are also known as “money-purchase” schemes.

tax treatment is similar for both types of second pillar arrangement. The maximum pension permitted by the authorities for a tax-approved scheme is two-thirds of final salary, although almost everyone in the UK retires on a pension significantly lower than that.

The amount of contributions also depends on each individual scheme. Under some schemes employees are exempt from contributions, although they can voluntarily contribute up to 15% of salary⁵ into the scheme to be additional benefits. Where employees are required to contribute, they typically pay between 4% and 6% of earnings. In a defined benefit scheme the employer contributes whatever is needed to balance the fund and to purchase the benefits as they fall due.

The tax authorities, the financial services regulators and the occupational pension scheme regulator, each regulate different aspects of second pillar pensions. Defined benefit schemes are permitted to provide funded (but not guaranteed) retirement benefits based on the concept of so-called “best effort”⁶. Such schemes are invested predominantly in equities rather than bonds on the assumption that the returns from equities are likely to be greater over the long-term. Conventional thinking in the UK is that the “best effort” approach for large defined benefit schemes helps to encourage employers to continue their sponsorship, but that view is now coming under challenge both in the UK and overseas.

Pensions legislation has been reviewed in the UK following the (so-called) “Maxwell Affair”, when it was found that controls were inadequate to prevent the unauthorised use of pension scheme assets. The result was clarification of the roles and responsibilities of sponsoring employers, trustees and their advisers, and the establishment of a regulator to whom “the whistle could be blown” in the event of wrong-doing.

Further recommendations from the Pension Law Review covered other aspects of regulation:

- payments from scheme funds to the sponsoring employer,
- monitoring of the solvency of the defined benefit schemes and their ability to meet their promises,

⁵For an employee who joined an occupational pension scheme in 1989 or later, the annual maximum salary on which contributions can be paid is capped. The current limit is £90,600.

⁶This is a term used in mainland Europe to describe the approach adopted in the UK whereby employers do not guarantee pension benefits. Although funded schemes are established to segregate the pension funds from the capital of the company, members of schemes are not guaranteed to receive their benefits if the scheme winds up in deficit after the employer becomes insolvent. As a result, the prudential requirements for asset backing are more relaxed than for a life company, and this allows UK schemes to invest predominantly in equities. This approach is under challenge from some European insurers.

- guidance to schemes on the selection and removal of trustees,
- protection to members on the wind-up or amendment of schemes,
- protection to members leaving a scheme before their retirement date,
- returns on scheme administration and “whistle blowing” on scheme abnormalities,
- proactive investigations by the Regulator,
- management of complaints, and
- the structure of regulation.

Further details are cross-referred in the Appendix, which has already been submitted for use by OASIS.

Occupational pension schemes generally offer a number of lessons, whether defined benefit or defined contribution:

- employer sponsorship and support are important,
- tax relief on contributions is a more attractive option than tax relief on benefits (i.e. “EET”⁷ is better than “TEE”),
- UK employees trust their employer to act fairly,
- pension scheme assets should be held separately from the assets of the sponsoring employer,
- schemes are best operated under trust with trustees to ensure that all members interests are treated fairly,
- deductions from salary offer an easy mechanism for collecting contributions without the individual needing to save out of take-home pay,
- the principle of “prudent man” investment allows trustees the flexibility in investment policy necessary to offer the beneficiaries the advantages of equity as opposed to fixed interest investment,
- employers prefer a scheme that allows a steady contribution rather than one for which the cost may fluctuate,
- if you offer individuals the opportunity to opt out of their pension scheme, short-term considerations often encourage members to make a short-sighted (incorrect) decision – thus, it may be advisable to allow employers to make membership of their occupational pension scheme a condition of employment,
- a proactive regulator, taking note of “whistle-blowing” creates a regulatory environment which encourages greater compliance with legislation,
- there should be a balance between those trustees nominated by the employer and those nominated by members, although neither group should represent a sectional interest,

⁷“EET” is an abbreviation for a regime offering tax exemption on contributions and investment earnings, whilst the proceeds are subject to tax.

- there should be training available to all trustees to ensure that they understand their role and responsibilities,
- every scheme should operate an internal disputes procedure to ensure that disagreements can be investigated locally before ultimate review by an independent pensions ombudsman, and
- care needs to be taken to ensure that the encouragement to voluntary provision is not lost by excessive regulation.

A number of further lessons are relevant to defined benefit schemes alone:

- the so-called “best-effort” approach, without guarantees, offers a higher overall benefit to members for a given cost than would be available if guarantees had to be offered,
- although the employer guarantee of solvency is of considerable value, this is probably not fully appreciated by employees,
- to provide security to members, a given level of funding should be established, which balances efficiency of investment with a moderate use of tax relief,
- future contributions need to be specified to ensure that current funding levels will be maintained,
- the role of the actuary in monitoring ongoing funding levels is crucial, alongside the power to “blow the whistle” if the fund is mis-managed,
- investment principles should be established, and monitored, to ensure that the ongoing prudent management is consistent with the actuary’s long-term funding assumptions,
- self-investment in the sponsoring employer should be limited, although other regulatory investment restrictions should be avoided, and
- benefits linked to final salary may not be ideal, in comparison with an alternative form of defined benefit known as “revalued average salary”, which incorporates many of the advantages of defined benefit without the disadvantages of defined contribution schemes.

Defined contribution schemes provide a number of other lessons:

- employers may not be as committed to defined contribution schemes as they are to defined benefit, at least that is if contribution levels are indicative – employers, in general, make smaller contributions to defined contribution schemes⁸,
- small employers may only consider defined contribution schemes, where they can manage their contributions more closely and the regulatory demands are likely to be less stringent, and
- employees do not appreciate that they are taking on a greater degree of investment in this type of scheme, a risk which is taken by the employer in the case of a defined benefit scheme.

⁸Defined benefit and defined contribution schemes should, on average, provide the same level of benefit for a given level of contribution, provided the underlying investment performances are the same.

4.3 Personal Pensions – Pillar Three

Insurance companies are the main providers of personal pension schemes. Estimates in 1997 from the UK Government Actuary's Department show that third pillar personal pension funds under management were about £225 billion, compared to total funded second pillar provision of £755 billion.

Personal pensions offer an alternative to both SERPS and occupational pensions. The advantage is that they are fully portable when an employee changes employment, although they suffer the obvious disadvantage that an employer is not required to contribute to a personal pension even when the employee could have chosen to join an occupational scheme.

All personal pensions operate on a funded money purchase basis, where the amount of the pension is that which the accumulated contributions can buy at retirement by the purchase of an annuity.

The amount of contribution paid into a personal pension is decided by the individual concerned. Employers may choose to contribute as well, although most choose not to. Individuals can choose to opt out of the earnings related element of the first pillar and receive a rebate on their national insurance contributions which has to be invested in their pensions. Rebates into personal pensions depend on age and gender, being between 3% and 9% - the higher rates apply to older people.

Membership of personal pension schemes has grown considerably since their introduction in 1988. Most of the growth occurred during the first few years and was due to the encouragement given by the State offering a rebate that was not originally age-related. This gave a particular incentive to younger people to have a personal pension. For a small minority of people, it may even have been better to have a third pillar personal pension (without an employer contribution) and forego any employer contribution into their alternative second pillar occupational pension. However, this comparison was difficult and much of that advice given by intermediaries has had to be reviewed recently. Compensation is now being paid to those who were mis-advised to ensure that no-one has been disadvantaged.

Personal pensions also play an important role in financing the retirement income for the self employed, who do not have access to occupational pensions. Private pensions for the self-employed have been available since 1956, and there are about 1.5 million self-employed people contributing to private pensions. In 1996, 59% of self-employed men and 31% of self-employed women were contributing to a personal pension.

The trend in the personal pension provision in the UK is for insurance companies to provide

- simple products (possibly with an option of wide-ranging underlying investment choice),
- extensive support and information (increasingly using access to modern technology such as the internet),
- ease of access for paying contributions (for example, using employers to deduct contributions before their employees receive their take-home pay), and
- the message that pensions need to be regarded as a long-term investment in which investors may need to ride out the peaks and troughs in the investment market, possibly well into retirement.

The lessons here from the UK are that

- for the majority of people, personal pensions need to be promoted and sold rather than just being bought,
- because of the complexity of product design and the underlying taxation and legislative structures, investors need general pensions advice as well as specific personal advice on their own long-term financial planning,
- personal pensions need to be flexible in order to encourage their use by mobile and flexible workers,
- in general, the comparable cost of personal pensions is higher than that for occupational pensions, where the sponsoring employer helps to promote the scheme,
- personal pensions are cheaper when sold to groups,
- difficulties can arise if reasonable comparisons are not made before deciding to use a personal pension as an alternative to either the State pension (with its modest guarantees) or occupational pensions (with their employer contributions),
- information needs to be as straightforward as possible, offering a single realistic illustration of possible benefits rather than a variety of different illustrations based on differing assumptions, and
- if the local market gets something systemically wrong, it is essential that the regulator acts to ensure that investors are not treated unfairly.

5 CONCLUSION

These comments on the system of pension provision in the UK offer a personal insight into some of the lessons that could be observed from that approach. It is to be hoped that they may provide helpful input to those facing similar problems in other countries. It is relatively easy to prepare a summary of our experiences and the solutions that we think will help us to resolve our future demographic problems. But it is important to recognise

that solutions must be tailored to the needs of the local community. Only the local legislators and regulators can decide which of these practices are most relevant to the local culture.

Private pensions in the UK are built on a framework of partnership with the State. A voluntary regime of private pensions has grown up over the last forty years through a combination of large standalone self-administered pension schemes and fully insured occupational and personal pensions.

The UK Government is currently considering how best to address the problem of those people who could afford to save for their own pensions but who choose not to do so. It is proposing to introduce what it is calling “Stakeholder Pensions” to demonstrate that we all have a stake in our own retirement provision. Again, the solution in our local UK market will be a partnership – the State first pillar is likely to be improved for those earning less than half national average earnings, whilst private pension providers will be expected to produce suitable products for both groups and individuals. The overall lessons provide a wealth of potential guidance:

- Governments need to identify their crucial role and ensure that it is both sustainable and affordable.
- Only the State can effect the redistribution to support those on low lifetime earnings.
- Occupational pension schemes have been a success but not everyone has access and, for others with access to such a scheme, they may still not always be appropriate.
- Increased public awareness and understanding of pensions are an essential ingredient. Government needs to spell out unambiguously the likely value of state pension provision in relation to future living standards. As Governments cut their support, due to pressure on resources, it is important for this to be communicated clearly. However, there are obvious political difficulties in so doing.
- To avoid excessive compulsion, a mechanism needs to be made available to encourage greater voluntary personal provision. The compulsory level of pension provision must strike the right cultural balance between the long-term benefits to individuals from better income in retirement with the right of individuals to have freedom of choice in how they use their money.
- The position of women in society is changing. Women tend to have lower pensions in retirement because they often spend less of their working lives in paid employment and because of historic discrimination against women in employment and in occupational pensions.
- As much as possible, everyone, including the self-employed should be included within a single regime.
- Greater private funded provision needs to be encouraged.
- Investors like named accounts, preferably updated monthly, alongside simplicity, security of capital and individualised personal control.

- It may be necessary to reduce the role of politicians in running pensions if the public are to be convinced that their clear expectation of future benefits cannot be reduced without a public outcry.
- It is important to have regulatory and administrative guidelines, clearly understood by providers and distributors, before new initiatives are launched.
- Most countries are looking at the problems of inadequate pension provision. Experience may suggest that Government has the key role to play in facilitating change; perhaps its most important responsibility may be to help avoid the problems exposed in other regimes.

It is obvious to suggest that the development of private pensions needs to build on the good experiences and learn the lessons from the bad. But the most important aim should be to fit such developments within the local framework, building on the frameworks accepted locally. The success of these changes depends, in part, on the local culture.

Countries have much to learn from each other, but it is not normally possible to import the whole of someone else's solution.

An introduction to the Role and responsibilities of OPRA (the Occupational Pensions Regulatory Authority) in the UK.

Introduction

UK Occupational Pensions are regulated by various regulators⁹

as regards different aspects of their operations. The regulator responsible for ensuring the security of members rights is OPRA (the Occupational Pensions Regulatory Authority) which was set up under the Pensions Act 1995, following a Pensions Law Review chaired by Professor Goode. This note provides a guide to relevant papers which illustrate the development of OPRA. In practice, only the Pensions Act itself and any judicial review of their powers can be taken as a definitive statement of their powers.

The Goode Committee

The death of Mr Robert Maxwell in a boating accident led to the revelation of potential misuse of pension scheme assets in some companies in the Maxwell business empire. In response, the House of Commons Select Committee on Social Security identified a range of weaknesses in the regulatory framework and made a number of recommendations – these included the establishment of a committee to carry out a thorough review of the regulation of occupational pensions. As a result, the Secretary of State for Social Security established the Pension Law Review Committee¹⁰ The review raised issues that went much further than issues arising in the Maxwell case. A summary of their recommendations is included in reference 2. The over-riding recommendation¹¹ was to clarify the roles and responsibilities of sponsoring employers, trustees and their advisers, and the establishment of a regulator to whom “the whistle could be blown in the event of wrong-doing”.

Further recommendations covered other aspects of regulation:

- Payments from scheme funds to the sponsoring employer¹²
- Monitoring of the solvency of the defined benefit schemes and their ability to meet their promises¹³

⁹See reference 1 - The various regulators of occupational pension schemes: The Pension Trustee’s Handbook , chapter 24.

¹⁰This became known as the “Goode Committee”, named after its chairman Professor Roy Goode.

¹¹See reference 2 , Pension Law Review Committee Report, Volume 1, section 1.2. Recommendation 1.

¹²Recommendations 13, 14 and 19.

¹³Recommendations 20 to 33, and 83, albeit that the actual implementation of these recommendations in the Pensions Act 1995 referred to a minimum funding requirement rather than minimum solvency requirement.

- Guidance to schemes on the selection and removal of trustees¹⁴
- Protection to members on the wind-up or amendment of schemes¹⁵
- Protection to members leaving a scheme before their retirement date¹⁶
- Returns on scheme administration and “whistle blowing” on scheme abnormalities¹⁷
- Proactive investigations by the Regulator¹⁸
- Management of complaints¹⁹
- The Structure of Regulation²⁰

The Pensions Act 1995 The Pensions Law Review Committee reported to the Secretary of State for Social Security, who issued a consultation²¹ (see reference 3) examining the need and scope for a new regulator, and the most appropriate model to be adopted. Following that consultation, the scope and responsibilities of the new Occupational Pensions Regulatory Authority were enshrined in legislation. OPRA’s responsibilities can be identified within the Pensions Act 1995 and associated regulations as follows:

- Scheme trusteeship²²
- Minimum funding requirements²³
- Modifications to trust deeds and scheme rules in appropriate circumstances²⁴
- Wind-up schemes appropriate and breaches of requirements for surplus or excess assets on winding up²⁵
- Transfer payments²⁶
- Breach of main pension scheme regulations²⁷
- Contravention of scheme requirements²⁸
- Contravention of the requirement to pay the regulator’s levy²⁹

¹⁴Recommendations 40, 42, 45 and 64.

¹⁵Recommendations 53, 55, 62 and 162.

¹⁶Recommendations 77 and 78.

¹⁷Recommendations 87, 91, 97, and 102.

¹⁸Recommendations 116 and 127.

¹⁹Recommendations 148 and 157.

²⁰Recommendations 193 to 217.

²¹DSS consultation on the Structure of Pensions Regulation.

²²Pensions Act 1995, sections 27 to 39 and 49 to 51.

²³Pensions Act 1995, sections 56 to 61.

²⁴Pensions Act 1995, sections 69 to 72.

²⁵Pensions Act 1995, sections 11 to 12 and 73 to 77.

²⁶Pensions Act 1995, section 153.

²⁷The main pensions legislation is under the Pension Schemes Act 1993.

²⁸Pensions Act 1995, section 155.

²⁹Pensions Act 1995, section 165.

- OPRA was appointed under section 6 of the Pensions Scheme Act 1993 to administer the Pension Schemes Registry. It is also responsible for the operation of the levy. Under those powers, OPRA as registrar:
 - compiles and maintains a statutory register of information about occupational and personal schemes,
 - provides registry information to scheme members and other appropriate bodies, and
 - collects the general levy, and collects and accounts for the compensation levy on behalf of the Pension Compensation Board.

OPRA has powers:

- to appoint, suspend, prohibit or disqualify trustees,
- to issue enforceable directions in certain circumstances,
- to wind up schemes,
- to require information,
- to enter, at all reasonable times, any premises liable for inspection,
- to obtain a warrant to enable OPRA inspectors to enter and search premises, copy documents, take possession of documents, require any named person to provide an explanation of documents, require any named person to state where certain documents may be found,
- to institute legal proceedings against and impose civil penalties on any person refusing to produce a document (under section 98) or refusing to allow investigation to take place (under section 99) and to publish any reports of investigations,
- to exchange information with designated bodies, and
- to institute legal proceedings for failure to register or failure to pay the levies,

Reference 4 provides a summary of the penalties that can be imposed on trustees.

OPRA in Practice

Funding: OPRA obtains its funding from the Department of Social Security to enable it to undertake its duties and responsibilities and to achieve the objectives agreed during the annual planning cycle and the Public Expenditure Survey. The full expenditure costs of OPRA are recovered through a levy on occupational pension schemes (the general levy) the rate of which is set by the Secretary of State for Social Security. The levy is collected by OPRA and paid into the Consolidated Fund. All money collected by OPRA as penalties is also paid into the Consolidated Fund in accordance with standard public expenditure rules. The Pensions Act provides for such money to be taken into account in determining the amount of any levy set by the

Secretary of State. OPRA is also responsible for collecting the compensation levy on behalf of the Pensions Compensation Board.

Accountability to Parliament: The Secretary of State for Social Security is accountable to Parliament for OPRA's activities, and needs to be satisfied that OPRA's activities are consistent with its functions under the Pensions Act, and with the Government's general aims. OPRA is required to provide the Secretary of State with an annual report of its activities for the preceding twelve-month period, which is laid before each House of Parliament. Parliament also exercises oversight and scrutiny of OPRA through the Comptroller and Auditor General, who has responsibility for auditing OPRA's accounts. Copies of the Comptroller and Auditor General's statements and his report on them are also laid before each House. OPRA is subject to the jurisdiction of the Parliamentary Commissioner for Administration.

Working Methods: Parliament means OPRA to be reactive, relying heavily on the industry, especially trustees and professional advisers, to make the new system work and to report to them when things went wrong. OPRA has established a help desk, and work closely with the professional bodies and trade associations to help implement essentially what is a change of culture that happens to be enshrined in legislation.

They use "intelligence links" with other supervisory and enforcement agencies to target their activities. They also have close day-to-day working arrangements with the Ombudsman and OPAS³⁰ Their main lines of communication to help the industry and complainants are:

- Formal guidance notes directed at the industry, including professional advisers.
- A hotline for reporting, sometimes anonymously, misdeeds³¹
- A wide range of public information leaflets and booklets.

OPRA's attitude to breaches depends largely on their nature and recurrence. They say they do not intend to make trustees' lives a misery, especially volunteers who come from the workplace. They are interested in matters being put right rather than moving swiftly to use their range of civil penalties and more serious sanctions. However, they draw the line at cases of dishonesty or inappropriate behaviour which concern money already in a pension fund or destined for it. Similarly, if they find some schemes have a string of breaches, then they give them special attention in case there is something worse going on underneath, but also to bring home to them that they need to comply. They attempt to agree programmes of improvement but woe betide those who promise but do not deliver.

³⁰OPAS (the Occupational Pensions Advisory Service) is the first port of call for a scheme members before they take a complaint to the Pensions Ombudsman.

³¹Known as "whistle-blowing".

UK Pension Schemes in Operation To provide a brief introduction to occupational pension schemes in the UK, references 5 to 7 offer:

- An outline of the structure of a scheme³²
- A summary of the advisers' role in helping the trustees exercise their duties³³
- A checklist of compliance with the Pensions Act³⁴

³²Reference 5.

³³Reference 6.

³⁴Reference 7.

7 REFERENCES

The various regulators of occupational pension schemes - The Pension Trustee's Handbook, chapter 24.

Recommendations of the Goode Committee - Pension Law Review Committee Report, Volume 1, section 1.2.

DSS consultation on the Structure of Pensions Regulation, December 1993.

Penalties under the Pensions Act - The Pension Trustee's Handbook, appendix IX.

An outline of the structure of a scheme - The Pension Trustee's Handbook, appendix VII.

A summary of the advisers' role in helping the trustees exercise their duties - The Pension Trustee's Handbook, chapter 8.

A checklist of compliance with the Pensions Act - The Pension Trustee's Handbook, Appendix X.